United States Department of the Interior
Bureau of Land Management
Colorado State Office
2850 Youngfield Street
Lakewood, Colorado 80215-7093

CO-922
3165.3

Certified Mail-Return Receipt Requested

DECISION

CO-04-01

Mr. Pete Kolbenschlag
Colorado Environmental Coalition
1000 N. 9th Street, #29
Grand Junction, Colorado 81501

COC63279
COC63280
COC63281
COC64235
COC64236

White River Field Office Decision of Finding of No Significant Impacts and Approval of Applications for Permit to Drill is Upheld

On October 1, 2003, you submitted an electronic mail request for a State Director's Review (SDR) of an August 27, 2003, Decision Record (DR) Finding of No Significant Impacts (FONSI) of the White River Field Office (WRFO) manager covering the approval of Applications for Permit to Drill (APDs) for the following seven wells, located on five leases: #1002, #1003 (COC64236), #1004 (COC63280), #1005, #1009 (COC63279), #1007 (COC64235), and #1008 (COC63281) and the approval to construct associated access roads and pipelines on lease COC63280. Five of the wells are located within the Big Ridge Conservationists' Wilderness Proposal (BRCWP) area. All wells are contained within the East Douglas Herd Area (EDHA). The DR stems from an Environmental Assessment #CO-WRFO-03-055-EA (EA) issued by the WRFO. You reported that your request is on behalf of the Colorado Environmental Coalition (CEC), The Wilderness Society (TWS), Colorado Mountain Club (CMC) and the Western Colorado Congress (WCC).

The case file reveals that notification of the EA and DR availability was sent to your office on August 27, 2003. In your SDR you state that you received the notification on September 4, 2003. However, the green return receipt cards in our file indicate that you received the notification on September 2, 2003. Pursuant to 43 CFR 3165.3 (b), our receipt of your SDR on October 1, 2003, would be considered late as it was not received within 20 business days. However, you are submitting on behalf of three other parties. Some of these parties received the notification at a later date–the last date being September 6, 2003, by the WCC. If the latter date is chosen, your request for SDR would be considered timely. We will assume that the latest date received as

indicated by the return receipt cards can be used in determining timeliness and that your request for SDR was timely filed pursuant to 43 CFR 3165.3 (b).

CEC Protest

In your SDR request you ask that the State Director remand the DR FONSI of the EA and the APDs and associated activity of seven wells and construction of associated pipelines and roads located in both the BRCWP and EDHA and require that the WRFO first complete its Resource Management Plan (RMP) Amendment for the contiguous West Douglas Herd Area (WDHA) and complete an environmental impact statement (EIS) for this project before allowing it to proceed. The EDHA and WDHA are separated by a two-lane highway. Below is a summary of your specific arguments in bold type. Following each of the arguments will be our response.

CEC's Arguments and BLM's Response

1. You contend that BLM must complete an RMP amendment on an adjacent area containing the WDHA to resolve connected issues prior to considering approval of this project. You reason that the oil and gas development, while occurring in the EDHA, is forcing the WDHA and EDHA horses to migrate outside their respective areas. Thus this action is closely connected to the actions and issues in the ongoing plan amendment. You state that BLM's decision to drill inside the EDHA while revising their RMP for the adjacent WDHA violates the National Environmental Policy Act (NEPA). You disagree with the WRFO in their determination that denies that this project is related to the issues of the WDHA. The reason you disagree is because the EA states that there is a change in distribution of wild horses in the WDHA that has resulted from oil and gas development.

In addition, by degrading horse habitat remaining in the EDHA, BLM is limiting the alternatives that might be considered in the RMP amendment. You concede that BLM can continue to authorize actions under the existing RMP for the EDHA, while the adjacent RMP amendment is underway, it can only do so if impacts from that action–direct, indirect, cumulative or connected- have been adequately analyzed in the plan amendment process. BLM must hold off making a decision in order to preserve the agency's ability to consider a full range of alternatives and management options in the WDHA RMP amendment.

BLM Response:

As stated under Issue 2 on page B-2 of the "BLM Responses to Public Concern" section of the DR, BLM's WDHA planning process involves the similar issue of oil and gas development impacting distribution of wild horses, but the situation is different. Leases issued in the WDHA do not have stipulations to protect wild horses. Leases issued in the EDHA do have stipulations to protect wild horses. Stipulations or Conditions of Approval (COAs) that are inconsistent with valid existing rights as described in 43 CFR 3101.1-2 cannot be added. The rationale for not having wild horse protection lease stipulations in the WDHA is that the ROD/RMP calls for the total removal of wild horses from the WDHA by 2007. The rationale for having wild horse protection lease stipulations in the EDHA is that the EIS for the ROD/RMP identified potential impacts from oil and gas development that needed to be mitigated. Even though the WRFO is currently considering an amendment to the ROD/RMP that may allow for management of wild

horses in the WDHA, any stipulations developed will have to honor valid existing lease rights. As such, actions within the WDHA and EDHA are not connected because of the difference in valid existing rights. The actions have been adequately analyzed in the RMP/ROD and in the EA.

2. BLM cannot make a "decision in principle" to prejudice future wilderness potential without an EIS. You contend that the Citizen's Wilderness Proposal (CWP) provides new information that the agency must consider prior to irretrievably committing the area for drilling. Even with the existence of leases, the agency cannot make decisions that prejudice against the possibility of future wilderness until it has accounted for new information or circumstances in an updated NEPA document. BLM must show that the impacts from the project will not be significant. You further state that new information regarding the wilderness character of Big Ridge Proposed Wilderness and other new additions to the CWP was submitted to BLM in 2001 and that BLM promised to consider the information in determining whether to approve an action. You further state that while BLM acknowledged this new information in the EA, BLM failed to conduct any meaningful analysis of the impacts of losing the area's wilderness character by the project. Moreover, BLM fails to consider any alternatives – such as buying back the leases or requiring directional drilling for all wells within the CWP that could protect Big Ridge's wilderness character. You explain that failure to consider an alternative that avoids irreversible and irretrievable harm to a proposed wilderness pushes the agency toward a set outcome and limits future choice, resulting in a "decision-in-principle" regarding resources it has failed to disclose and evaluate.

BLM Response:
We believe that this issue has been addressed rather completely by the WRFO in the "Response" section of the third issue addressed on pages B-2 and B-3 of the "BLM Responses to Public Concern" section of the DR. There is no policy to direct the BLM to disallow non-discretionary surface disturbing activities, such as oil and gas drilling operations, in CWP areas. For more discussion of Big Ridge wilderness potential consideration and land use planning documents, see Appendix A of the DR. Since Big Ridge was not included in a WSA as part of the BLM Colorado State Office Wilderness Study Report, Statewide overview, Record of Decision (October 18, 1991), BLM may administer the subject lands for other purposes, including the approval of drilling for oil and gas. The Interior Board of Land Appeals has upheld this determination in several cases, most recently in Southern Utah Wilderness Alliance, 158 IBLA 212. As a result of this lawsuit, Washington issued Instruction Memorandum (IM) WO-03-274 on September 29, 2003, which addresses ongoing activity in light of new information and future impairment. Under item number five of the IM, the following is stated (emphasis added):

> The BLM may continue to inventory public lands for resources or other values, including wilderness characteristics, as a part of managing the public lands and land use planning. Information provided by the public about resources and other values will be considered along with all other resource information in the planning process. New information may be considered in the NEPA process as appropriate. BLM will continue to manage public lands according to existing land use plans while new information (e.g., in the form of new resource assessments, wilderness inventory areas or "citizen's proposals") is being considered in a land use planning effort. During the planning process and concluding

with the actions after the planning process, **BLM will not manage those lands under a congressionally designated non-impairment standard, nor manage them as if they are or may become congressionally designated wilderness areas**, but through the planning process BLM may manage them using special protections to protect wilderness characteristics.

Even though the IM was issued after the DR, it is fully consistent with the DR in that it further precludes constraints to activity even after considering new information. For your convenience, a copy of the IM is included. While the proposed action directly impacts the wilderness potential of 65 acres, and indirectly impacts potential for an area slightly larger, it does not impact the potential on the rest of the Big Ridge CWP area, which totals almost 25,000 acres. The only ways to totally protect the wilderness potential within the area of the proposed action would be to not allow the proposed development, or to directionally drill the wells from outside of the CWP. Not allowing the drilling is not a viable option. Directional drilling was considered and the EA did not disclose any major difference between the impacts of the proposed action and the directional alternative and is discussed further in #5 below. Since BLM leased the area to the applicant for oil and gas development, the agency is obligated to allow the applicant to develop their lease. This is non-discretionary. In addition, the oil and gas leases which encumber the subject lands do not preclude surface occupancy. Federal regulations allow the authorized officer to impose reasonable, site-specific conditions of approval to the extent they are consistent with those rights conveyed by the lease and any stipulations attached thereto. However, "…measures shall be deemed consistent with lease rights granted provided they do not: require relocation of proposed operations by more than 200 meters; require that operations be sited off the leasehold; or prohibit new surface disturbing operations for a period in excess of 60 days in any lease year" (see 43 CFR 3101.1-2). Requiring a move to a location outside the proposed wilderness boundary or to an existing well pad would be inconsistent with this regulation and is not a reasonable alternative.

3. You state that BLM must protect wild horse's habitat in the herd area. You also state that the EA shows a disregard for and is in violation of the Wild and Free-Roaming Horses and Burros Act (WFRHBA) by not properly accounting for cumulative and connected impacts to wild horses from oil and gas development projects. You mention that the EA states that in 1980 the horses were evenly distributed but as oil and gas development occurred in the central and northern portions of the herd area, the horses have been increasingly isolated to the southern region and forcing the horses outside the WDHA which is in conflict with the WFRHBA. You further state that the 10th Circuit has held that the protection of wild horses is an important governmental interest. You further state that the WFRHBA requires BLM to manage wild horses in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands. However, the BLM readily admits in the EA that energy development is impacting and will further impact the wild horses and will further decrease the functionality of this area for wild horse use. That infill drilling would guarantee the loss of this important area to wild horses and decrease the functionality of this area for wild horse use. BLM must at least consider alternatives that would avoid these outcomes.

You mention that the EA states that the development may reach a disturbance threshold preventing wild horse use of the area and thus reduce usable winter range of the East

Douglas horses by 20 percent and that this is in conflict with FLMPA, which states the Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat. You summarize that significantly reducing winter habitat and continually displacing horses is not maintaining healthy populations nor balancing the horses needs with oil and gas development and makes a complete mockery of the BLM's designation of the area as a wild horse management area and in violation of the WFRHBA. In addition, BLM's promise of a separate project analyzed under a separate EA does not lessen the impacts from this project as analyzed in this EA.

BLM Response:

The connectivity issues of development in the EDHA affecting horses in the WDHA have been addressed in #1 above. The protection of the horse habitat is addressed in #4 below. In Appendix A-1 of the DR, it was disclosed that the proposed action would prevent horses from using the immediate area and thus reduce usable winter range of the east Douglas horses by 20%. It was also recognized that 10 horses use this area during the four winter months. It was projected that if the wells are productive, the loss of range would force horses south. In the EDHA, the area is not fenced and horses would move south out of the management area. The rationale for the decision to approve the proposal is that if the wells are non productive, all sites will be reclaimed and there will be no long-term loss of range, or need for mitigation. If the wells prove productive, additional mitigation for range enhancement as stipulated by the lease would be required. With this mitigation, the needs of the horses would be met and displacement outside the management area would be minimal and consistent with lease rights granted and the RMP.

4. BLM must include analysis of fully integrated mitigation in order to reach FONSI determination. You state and infer by reference to the DR of the EA that the WRFO relies upon extensive conditions of approval and off-site mitigation to reduce impacts to below significant levels. However, you contend that there is no description of the proposed off-site mitigation and no analysis of associated impacts from the mitigations (COAs, BLM standard practices, off-site mitigation, etc.). You also state that COAs cannot be used to reduce the findings of this project below the threshold of significance. You emphasize that BLM should not rely on the possibility of future mitigations to reduce impacts and should prepare an EIS if impacts are significant and that agencies are discouraged from using mitigation to avoid a FONSI determination – a mere listing of mitigations is insufficient to avoid preparation of an EIS and that additional analysis that conclusively demonstrates that mitigation will allow the project to avoid significant impacts is needed. You state that BLM fails to provide any integrated analysis of those (mitigation) measures in the EA. You provide a quote from the EA that essentially defers the determination of forage offsite mitigation to a separate EA performed at a later date. You state that the detail of this mitigation, including analysis of exact location and impacts and other information needs to be integrated into the EA and that the consequences of the mitigations must be quantified and qualified and discussed in sufficient detail to ensure that environmental consequences have been fairly evaluated. You contend that BLM fails to provide any analysis of how specific mitigations will reduce impacts, nor provide data showing it will be successful.

BLM Response:

A review of the record indicates that each of the five leases has a lease stipulation that provides for the protection of the wild horse habitat. The lease stipulation, EA and DR are directly tiered to the 1997 White River Record of Decision/ RMP and associated Environmental Impact Statement (EIS). Specifically, the stipulation in the RMP calls for development activities to be delayed 60 days between March 1 and June 15. In addition, the stipulation states that the lessee may be required to perform special conservation measures including habitat improvement projects in adjacent areas **if development displaces wild horses from critical habitat** (emphasis added), replacement of disturbed watering areas and improvements that would provide for unrestricted movement of horses between summer and winter ranges. As the stipulation states, special conservation measures will be implemented if development displaces wild horses from critical habitat. This decision is further explained in the decision record rationale on page A-1, if the wells prove non-productive, development activity will be limited, all sites will be reclaimed, and there will be no long-term loss of range to wild horses, or need for mitigation. Should the wells prove productive, mitigation will be required. Thus, mitigation can only be determined after the wells are drilled and final impacts are known. Once it is determined what the actual impact is, an EA will be performed to assess the impacts of the range enhancement. In addition, Condition of Approval (COA) number 23 for each of the seven wells specifically provides that the operator may be required to enhance 300 acres of pinyon juniper woodland by removal and seeding. The calculation rationale for the 300 acres of range enhancement is provided for on page 22 of the EA. As such, the mitigation in the EA, DR, Lease Stipulation and APD COA provides for fully integrated mitigation. We also find that the mitigation will be implemented and is fully enforceable, by virtue of being a lease stipulation and COA, if the situation warrants and is thus not "possible mitigation" nor just "a mere listing" as you so categorize. We disagree with your statement that COAs cannot be used to reduce the findings of this project below the threshold of significance since the COAs are enforceable under 43 CFR 3101.1-2.

5. BLM should actively encourage more sensitive technologies. You contend that BLM cited in the Decision Record there is no justification for directional drilling since the EA did not identify any major differences between the impact of the directional drilling alternative and the proposed action. You take issue with the Bureau of Land Management's (BLM's) determination of a lack of "major differences" in that you state that a cultural site, deer winter and spring habitat, irretrievable loss of 16 acres of wilderness-quality lands and more than ½ mile of land for new road will be impacted. You concede that while BLM did include an alternative for directional drilling, it opted for the more-damaging new well location.

BLM Response:

You have not shown nor provided specific data that BLM's determination in not requiring directional drilling is in error. Under Item No. 7, "Description of proposed action and alternatives" section of the EA, the WRFO provided an analysis of a directional drilling alternative. In the analysis, they determined that all wells, with the exception of Well #1003,

would not be practical or feasible to be drilled directionally because they aren't close enough to existing pads. Well #1003 was considered because an existing pad was close and might be large

enough to accommodate directional drilling. While a savings of disturbance of 16 acres was identified, no major differences to impacts were identified.

Decision

In light of the foregoing, we determine that the August 27, 2003, FONSI DR of EA #CO-WRFO-03-055-EA covering the approving the Applications for Permit to Drill (APDs) for seven wells, associated roads and pipelines previously mentioned adequately analyzed, disclosed and mitigated the impacts of the proposed action and is thereby upheld. We also determine that the approval of the APDs is upheld. Protestant's request to remand the DR and require that the WRFO first complete its RMP amendment for the WDHA and complete an EIS for this project before allowing it to proceed is denied

Appeal Rights

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30-days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) (request) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board; the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

(1) The relative harm to the parties if the stay is granted or denied,
(2) The likelihood of the appellant's success on the merits,

(3) The likelihood of immediate and irreparable harm if the stay is not granted, and
(4) Whether the public interest favors granting the stay.

Lynn Rust
Deputy State Director
Resource Services

Attachment
1-Form 1840-6, "Information on Taking Appeals to the Board of Land Appeals"
2-WO-IM-03-274, issued September 29, 2003

bcc: CO-100 Strahan,
CO-110 Rholl,
CO-120 Gale,
CO-130 Lehman,
CO-140 Connel,
CO-170 Johnson,
CO-150 Lewis,
CO-200 Underwood
BLM Solicitor John Kunz
El Paso Production Oil and Gas Company
Case File: SDR-CO-03-06
Electronic Distribution: AK-980, AZ-920, CA-920, CO-934, WA-970, ID-920, MT-920, NV-920, NM-920, OR-920, UT-920, WY-920

PGallagher:df:10-16-03:Pete Kolbenschlag SDR 10-16-03

Form 1842-1
(April 2002)

UNITED STATES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL	Within 30 days file a *Notice of Appeal* in the office which issued this decision (see 43 CFR Secs. 4.411 and 4.413). You may state your reasons for appealing, if you desire.
2. WHERE TO FILE NOTICE OF APPEAL . . .	Bureau of Land Management Colorado State Office Resource Services (CO-922) 2850 Youngfield Lakewood, Colorado 80215
ALSO COPY TO SOLICITOR	Regional Solicitor Rocky Mountain Region 755 Parfet Street, Suite 151 Lakewood, Colorado 80215
3. STATEMENT OF REASONS. .	Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of the Secretary, Board of Land Appeals, 801 North Quincy St., Suite 300, Arlington, VA 22203 (see 43 CFR Sec. 4.412 and 4.413). If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary.
ALSO COPY TO SOLICITOR	Regional Solicitor Rocky Mountain Region 755 Parfet Street, Suite 151 Lakewood, Colorado 80215
4. ADVERSE PARTIES	Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (see 43 CFR Sec. 4.413). Service will be made upon the Associate Solicitor, Division of Energy and Resources, Washington, D.C. 20240, instead of the Field or Regional Solicitor when appeals are taken from decisions of the Director (WO-100).
5. PROOF OF SERVICE	Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of the Secretary, Board of Land Appeals, 801 North Quincy St., Suite 300, Arlington, VA 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (see 43 CFR Sec. 4.401 (c)(2)).

Unless these procedures are followed your appeal will be subject to dismissal (see 43 CFR Sec. 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: *A document is not filed until it is actually received in the proper office (see CFR Sec. 4.401(a)).*

SUBPART 1821.2 - - OFFICE HOURS; TIME AND PLACE FOR FILING

Sec.1821.2-1 *Office hours of State Offices*; (a) State Offices and the Washington Office of the Bureau of Land Management are open to the public for filing of documents and inspection of records during the hours specified in this paragraph on Monday through Friday of each week, with the exception of those days where the office may be closed because of a national holiday or Presidential or other administrative order. The hours during which the State Offices and the Washington Office are open to the public for the filing of documents and inspection of records are from 10 a.m. to 4 p.m., standard time or daylight saving time, whichever is in effect at the city in which each office is located.

Sec. 1821.2-2(d) Any document required or permitted to be filed under the regulations of this chapter, which is received in the State Office or the Washington Office, either in the mail or by personal delivery when the office is not open to the public shall be deemed to be filed as of the day and hour the office next opens to the public.

(e) Any document required by law, regulation, or decision to be filed within a stated period, the last day of which falls on a day the State Office is officially closed, shall be deem to be timely filed if it is received in the appropriate office on the next day the office is open to the public.

* * * * *

See 43 CFR Sec. 4.21 for appeal general provisions.

BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

September 29, 2003

In Reply Refer to:
1610, 6310 (170) P
Ref. IM No. 2003-195

EMS TRANSMISSION 09/29/2003
Instruction Memorandum No. 2003-274
Expires: 09/30/2004

To: All AD's, SD's, and Center Directors

From: Director

Subject: BLM Implementation of the Settlement of Utah v. Norton Regarding Wilderness Study

Program Area: National Landscape Conservation System/Land Use Planning

Purpose: The following provides general guidance for interpretation of the Utah v. Norton wilderness study lawsuit settlement.

Background: In 1996, the State of Utah, Utah School Institutional Trust Land Administration, and the Utah Association of Counties (collectively Plaintiffs) filed suit challenging the Bureau of Land Management's (BLM) authority to re-inventory lands for possible wilderness study area designation in Utah. A settlement to this suit, as amended, was reached in April 2003 between the Department of the Interior and the Plaintiffs. Consistent with BLM policies for the identification, management and protection of multiple uses, terms of the settlement will be applied Bureauwide.

Policy/Action: BLM is a multiple use agency committed to the balanced stewardship of public lands. The policies stemming from the settlement acknowledge that Congress established a deadline for BLM's authority to designate Wilderness Study Areas (WSAs) which are then managed under the non-impairment provisions of Section 603 of the Federal Land Policy and Management Act (FLPMA). Although Congress ended BLM's authority to designate WSAs in 1993, BLM retains its Section 201 FLPMA authority to inventory resources or other values, including areas with wilderness characteristics such as naturalness, or those that offer solitude and are conducive to primitive, unconfined recreation. Through its land use planning process, BLM will consider all available information to determine the mix of resource use and protection that best serves the FLPMA multiple use mandate.

As part of its litigation analysis in the above-described lawsuit, the Department reviewed its wilderness study policies in light of FLPMA's provisions on wilderness (Section 603),Inventory (Section 201), and land use planning (Section 202). Based upon this review, the Department settled the Utah wilderness inventory lawsuit. This settlement affects all states as follows:

1. The authority set forth in Section 603(a) of FLPMA to complete the three-part wilderness review process (inventory, study and reporting to Congress) expired on October 21, 1993.

2. Following expiration of the Section 603(a) process, there is no general legal authority for the BLM to designate lands as WSAs for management pursuant to the non-impairment standard prescribed by Congress for Section 603 WSAs. FLPMA land use plans completed after April 14, 2003 will not designate any new WSAs, nor manage any additional lands under the Section 603 non-impairment standard.

3. FLPMA land use plan decisions may accord special management protection for special values through the land use planning process.

4. The settlement does not affect the management of any of the following four categories of designated WSAs:

    a. WSAs identified through the Section 603 process and recommended by the President to the Congress;
    b. Section 202 WSAs identified and recommended by the President to the Congress through the Section 603 wilderness review process;
    c. WSAs established legislatively;
    d. Existing Section 202 WSAs already identified and designated in a current land use plan, although these designations may be changed when the land use plan is changed. For example, any existing WSA identified in a land use plan purporting to rely on the authority of Section 202 of FLPMA and not recommended by the President to the Congress, or by legislation, may be changed through the land use planning process and need not continue to be subject to the non-impairment standard and other provisions of the Interim Management Policy (IMP) upon changing the land use plan.

5. The BLM may continue to inventory public lands for resources or other values, including wilderness characteristics, as a part of managing the public lands and land use planning. Information provided by the public about resources and other values will be considered along with all other resource information in the planning process. New information may be considered in the NEPA process as appropriate. BLM will continue to manage public lands according to existing land use plans while new information (e.g., in the form of new resource assessments, wilderness inventory areas or "citizen's proposals") is being considered in a land use planning effort. During the planning process and concluding with the actions after the planning process, BLM will not manage those lands under a congressionally designated non-impairment standard, nor manage them as if they are or may become congressionally designated wilderness areas, but through the planning process BLM may manage them using special protections to protect wilderness characteristics.

6. The BLM's authority to designate WSAs in Alaska under the authority of Section 1320 of the Alaska National Interest Lands Conservation Act is not affected by this settlement. This issue is addressed in a separate April 11, 2003 Secretarial policy decision limited to Alaska.

The Washington Office is developing additional guidance to implement the settlement.

Time Frame: This policy is effective immediately.

Budget Impact: It is not anticipated that implementation of this policy would result in any significant increase in cost to the Field Offices. Any costs will be covered within existing State Office base allocations.

Manual/Handbook Sections Affected: Bureau Manual Handbook, Wilderness Inventory and Study Procedures (H-6310-1) was rescinded, as per the terms of the settlement in memorandum "Rescission of National Level Policy Guidance on Wilderness Review and Land Use Planning (IM 2003-195). The Land Use Planning Handbook (H-1601-1) will also be modified to be in conformance with the settlement.

Coordination: Development of this policy has been coordinated with the Department, the Solicitor, BLM's Directorate, WO-200 and WO-300.

Contact: Please address any questions and concerns regarding this policy to Elena Daly, Director, National Landscape Conservation System, WO-170, (202) 208 3516.

Signed by:
Jim M. Hughes

Authenticated by:
Barbara J. Brown

Deputy Director

Policy & Records Group, WO-560